

Remarks

Claims 1-12, 21-22, and 38-41 were pending in the subject application. Accordingly, claims 1-12, 21-22, and 38-41 are now before the Examiner. Favorable consideration of the pending claims is earnestly requested.

The Office Action states that the affidavit under 37 CFR §1.132 filed March 26, 2004 is insufficient to overcome the rejection of claims 1-12, 21-22, and 38-41 based on Sweetland, Linton *et al.* and Ebey as set forth in the last Office Action because it refer(s) only to the system described in the above-referenced application and not to the individual claims of the application. The applicant respectfully disagrees. Referring to the Declaration of E. Paul Green under 37 CFR §1.132 filed on March 26, 2004, the first full paragraph on page 2 of the Declaration quotes from the rejection in the Office Action dated October 22, 2003, refers to the limitation incorporated by claim 1, and then discusses the lack of teaching in the cited references and the lack of explanation in the Office Action of where or how to modify the device of the Sweetland reference as mentioned in the Office Action. The first full paragraph on page 2 of the Declaration ends by stating "[t]here is simply no motivation for me to modify Sweetland in the manner suggested in the Office Action".

The last paragraph beginning on page 2 and carrying over to page 3 of the Declaration addresses the Office Action's statement regarding the motivation of one of ordinary skill in the art, with respect to the rejection of claims 1-2 and 21-22 and ends with the sentence "[t]hus, one of ordinary skill in the art, at the time of my invention, would not have been motivated to employ in Sweetland a first piece mounted to an A-frame and a second piece mounted to the trailer jack.

The first full paragraph on page 3 of the Declaration then addresses additional comments in the Office Action and discusses the principle object of the Sweetland invention and that the intended purpose of the Sweetland device would be defeated by modifying the Sweetland device in the manner suggested in the Office Action, referring to the modification to the Sweetland device proposed in the rejection of claims 1-2 and 21-22. As discussed in the Response of July 26, 2004 (page 10), "if a proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." In re Ratti, 270 F.2d. 810, 123 USPQ 349 (CCPA 1959).

In the first full paragraph on page 4 of the Declaration, a discussion of how the modification proposed in the Office Action would change the principle of operation of the Sweetland device, referring to the modification to the Sweetland device proposed in the rejection of claims 1-2 and 21-22.

The second full paragraph on page 4 then addresses additional comments in the Office Action regarding the scope of claim 1, the scope of claim 21, and the scope of claim 22 and discusses that lack of teaching of the cited reference with respect to the limitations of claims 1, 21, and 22.

The last paragraph on page 4, which carries over to page 5, then discusses the rejection of claims 3-12. It is stated that the references do not cure the limitations of the Sweetland and Linton *et al.* references. A discussion of the scope of claim 4 and the scope of claim 9 is also provided, as well as the lack of teaching of the cited references with respect to the limitations of claims 4 and 9.

Accordingly, the affidavit under 37 CFR § 1.132 filed March 26, 2004 refers to the individual claims of the application. Therefore, there is a showing that the objective evidence of non-obviousness is commensurate in scope with the claims.

Claims 39-41 have been rejected under 35 U.S.C. § 112. The applicant respectfully submits that the recitation in claim 39 that "the A-frame coupler . . . is designed to couple to a hitch ball", and the recitation in claim 40 that "an A-frame coupler . . . incorporates a ball socket for receiving a hitch ball" have support in the specification from Figure 1A. Referring to Figure 1A of the subject application, a ball socket for receiving a hitch ball is clearly shown.

Accordingly, the applicant respectfully requests reconsideration and withdrawal of the rejection of claims 39-41 under 35 U.S.C. § 112.

Claims 1-2, 21-22, and 38-40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sweetland (U.S. Patent No. 3,345,037) in view of Linton *et al.* (U.S. Patent No. 4,176,824). The applicant respectfully traverses this grounds for rejection. A *prima facie* case of obviousness has not been presented. Three criteria must be met to establish *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or combination of references, must teach or suggest all the claim limitations. Applicant respectfully

traverses the rejection since the prior art does not provide any suggestion or motivation to modify the Sweetland to arrive at the subject invention as claimed in claims 1-12, 21-22, and 38-40 and there is no reasonable expectation of success of such a modification.

The Office Action dated November 10, 2004, at page 3, states “[t]o employ on the Sweetland vehicle A-frame coupler a first piece mounted to the vehicle and a second piece mounted to the vehicle jack would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Linton” (underline added for emphasis). However, claim 1 incorporates the limitation “a first piece mountable to an A-frame coupler of a trailer” (underline added for emphasis). An executed Declaration Under 37 CFR §1.132 by Mr. E. Paul Green was submitted on March 26, 2004. Referring to page 2, first full paragraph of Mr. Green’s Declaration, Mr. Green states,

“the Linton *et al.* reference does not teach a first piece mounted to an A-frame coupler of a trailer. Furthermore, the Office Action does not provide any indication where or how to employ in Sweetland a first piece mounted to an A-frame coupler of a trailer and a second piece mounted to a trailer jack, or how to movably connect the first piece to the second piece such that the second piece can transition between a plurality of positions relative to the first piece.”

Accordingly, the applicant asserts that there is no motivation to modify the Sweetland reference as stated in the Office Action and there is no reasonable expectation of success of such a modification.

The Office Action states at page 3 that “[a]ny frame member on the front of the vehicle may be termed an A-frame coupler”. However, the applicant asserts that an A-frame coupler attaches to the two frame members of the trailer that meet at the front end of the trailer to form “the tip of an A” and incorporates a ball socket for receiving a hitch ball, and that one skilled in the art, having access to the applicant’s disclosure, would understand the meaning of “A-frame coupler” to be an element that attaches to the two frame members of the trailer that meet at the front end of the trailer to form “the tip of an A” and incorporates a ball socket for receiving a hitch ball. Therefore, the applicant asserts that it is a mischaracterization to state that any frame member on the front of the vehicle may be termed an A-frame coupler. Referring to the July 30, 2004 declaration, Mr. Green declares that:

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“the term A-frame coupler has a meaning well-known in the art. As commonly known in the art, an A-frame coupler is an element that attaches to the two frame members of the trailer that meet at the front end of the trailer to form “the tip of an A” and incorporates a ball socket for receiving a hitch ball. Therefore, it is a mischaracterization to state that any frame member on the front of the vehicle may be termed an A-frame coupler.”

Accordingly, it is a mischaracterization to state that any frame member on the front of the vehicle may be termed an A-frame coupler.

The Office Action further states at page 3 that “one of ordinary skill in the art would have been motivated to do this in order to enable the A-frame mounted jack of Sweetland to be able to transition between a plurality of vertical positions such that the jack will be initially positioned at a correct vertical position relative to the ground before jacking is begun”. However, referring to page 2, second full paragraph of Mr. Green’s signed Declaration Under 37 CFR §1.132 submitted March 26, 2004, Mr. Green states

“the supporting device B taught in the Sweetland reference incorporates a “supporting flange 38 rigidly mounted to the shaft ... [i]mmediately above flange 38 is a cylindrical bushing 39, also rigidly attached to the shaft ... [b]elow flange 38 is another bushing 40 spaced from the flange and also rigidly attached to shaft 30” (see column 2, lines 54-58). The Sweetland reference teaches “[i]n operation, yoke A is held at an elevation wherein the shaft 30, in the areas above bushing 39 and 40, can fit through mouths 43 and 44 into keyways 25 and 26; in the aforesaid position, shaft 30 is maintained in vertical alignment ... [y]oke A is then lowered wherein plate 13 at the area adjacent keyway 25 rests upon flange 38 to support the yoke” (see column 2, lines 66-72). Accordingly, the Sweetland reference relies on keyway 25 resting upon flange 38 to support the yoke, such that the mounting of the second piece 32 taught by Linton to the trailer jack (supporting device B) taught by Sweetland and the

mounting of the first piece 38 taught by Linton to the A-frame coupler of the trailer taught by Sweetland would not function to allow the trailer jack (supporting device B) mounted to the second piece to transition between a plurality of positions relative to the trailer mounted to the first piece without defeating the mechanism the Sweetland reference relies on to support the yoke, namely keyway 25 resting upon flange 38. In fact, the Sweetland reference teaches, as column 1, lines 35-36, "it is obvious that the yoke support must be removed when the trailer is again connected to a pulling vehicle" and, at column 1, lines 36-44, "[i]t is a principal object of the invention to provide a support removeably engageable with the yoke ..." (underline added for emphasis). Therefore, the Sweetland reference teaches removing the supporting device B when the trailer is connected to a pulling vehicle. Thus, the applicant asserts that one of ordinary skill in the art would not have been motivated to employ in Sweetland a first piece mounted to an A-frame and a second piece mounted to the trailer jack."

Referring to page 3, first full paragraph of the Green Declaration, Mr. Green states

"The reason the applicant's prior remarks discuss the Sweetland "keyway" and "flange" is because that is the mechanism which enables the Sweetland jack to be removably engageable with the yoke, which is the principle object of the Sweetland invention (see column 1, lines 36-44). On page six, the Office Action states that "applicant further argues that purpose of the Sweetland reference is defeated by modifying the jack mounting arrangement in the manner taught by Linton *et al.* ... [t]he primary purpose of the jack in Sweetland is for raising the vehicle so the purpose of the jack in Sweetland indeed has not been defeated by the Linton *et al.* modification", the invention taught in the Sweetland reference is a removable trailer support (see title, column 1, lines 11-13, 21-23, 34-36, 41-42, 48-50, and 58-61), rather than a jack. Sweetland teaches at column 2, lines 5-7, "the device to be easily installed and removed without the necessity for tools and special equipment". With

regard to a jack, Sweetland teaches "a jack assembly in combination with the trailer support" such that the jack is an accessory to be used in combination with the removable trailer support, rather than the jack being the invention. Accordingly, the intended purpose of the Sweetland device would be defeated by modifying the Sweetland device in the manner suggested by the Office Action by incorporating a first piece and second piece from Linton *et al.*, if such a modification could even function."

Moreover, "if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification". *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Referring to page 4, carry over paragraph, last sentence of the Green Declaration, Mr. Green states

"the modification proposed by the Office Action would render the Sweetland device unsatisfactory for its intended purpose, namely to be a support removably engageable with the yoke of a trailer (column 1, line 37-39)."

Therefore, there is no suggestion or motivation to make the modification proposed in the Office Action.

In addition, "if a proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious". *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Referring to page 4, first full paragraph, of the Green Declaration, Mr. Green states

"the modification proposed in the Office Action would change the principle of operation of the Sweetland device, namely to be a support removably engageable with the yoke of a trailer (column 1, line 37-39) with respect to which the Sweetland reference teaches "[i]n operation, yoke A is held at an elevation wherein the shaft 30, in the areas above bushing 39 and 40, can fit through mouths 43 and 44 into keyways

25 and 26; in the aforesaid position, shaft 30 is maintained in vertical alignment ...
[y]oke A is then lowered wherein plate 13 at the area adjacent keyway 25 rests upon
flange 38 to support the yoke" (see column 2, lines 66-72)."

Therefore, the teachings of the Sweetland and Linton *et al.* references are not sufficient to render the rejected claims *prima facie* obvious.

Accordingly, one of ordinary skill in the art would not have been motivated to employ on the Sweetland vehicle A-frame coupler a first piece mounted to the vehicle and a second piece mounted to the vehicle jack in order to enable the A-frame mounted jack of Sweetland to be able to transition between a plurality of vertical positions such that the jack will be initially positioned at a correct vertical position relative to the ground before jacking is begun. A *prima facie* case of obviousness has not been presented with respect to claims 1-2, 21-22, and 38-40. Therefore, the applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-2, 21-22, and 38-40 under 35 U.S.C. §103(a).

Claims 3-12 and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Sweetland in view of Linton *et al.* taken with Ebey (U.S. Patent No. 4,623,125). The applicant respectfully traverses this rejection. The deficiencies with respect to claims 1 and 40 over Sweetland *et al.* in view of Linton *et al.* have been discussed above. The Ebey reference does not cure such defects. Furthermore, the Office Action states "[t]o provide additional mating holes in the first or second mounting pieces of Linton *et al.* so as to enable the vehicle jack to be pivoted between a horizontal and a vertical position would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Ebey. However, the Office Action has not described where mating holes in the first or second mounting pieces of the Linton *et al.* device could be positioned to allow the vehicle jack to pivot. Furthermore, bails 40 would appear to prevent any such pivoting. Accordingly, a *prima facie* case of obviousness has not been presented with respect to claims 3-12 and 41. Furthermore, claim 4 includes the limitation "wherein said first piece comprises a trailer mounting structure for mounting to the A-frame coupler of the trailer and at least one extending structure for pivotally connecting to said second piece, wherein said second piece comprises a trailer jack mounting structure for mounting to the trailer jack and at least one pivoting

arm for pivotally connecting to said first piece... Claim 9 includes the limitation “wherein said first piece is removably mounted to the A-frame coupler of the trailer. The Sweetland, Linton *et al.*, and Ebey references, alone or in combination, do not teach or suggest the subject invention as claimed in claims 4 and 9 and, in particular, the underlined limitations. Therefore, the applicant respectfully requests reconsideration and withdrawal of the rejection of claims 3-12 and 41 under 35 U.S.C. §103(a).

Applicant wishes to thank the Examiner for consideration of the remarks submitted in the applicant's Response dated July 26, 2004, with respect to which the Examiner provided an Office Action dated November 10, 2004.

On page 4 of the Office Action, the Examiner states “Applicant's remarks that the Linton *et al.* jack mounting arrangement would not function in a trailer is certainly found to have absolutely no merit”. The applicant, again, does not know to which remarks the Examiner is referring.

On page 5 of the Office Action, the Examiner states, “Applicant further argues that purpose of the Sweetland reference is defeated by modifying the jack mounting arrangement in the manner taught by Linton *et al.* The primary purpose of the jack in Sweetland is for raising the vehicle so the purpose of the jack in Sweetland indeed has not been defeated by the Linton *et al.* modification.” However, the primary purpose of the device taught in the Sweetland reference is to provide a support removably engageable with the yoke, as discussed above on page 5 and 6. Again, the Sweetland reference does not teach a jack, but, rather, teaches a removably engageable support. In fact, the main embodiment taught in Sweetland does not even incorporate a jack. Column 3, lines 49-51 of Sweetland teaches “as an alternative in the embodiment of the invention, as shown in Figure 7, a jack mechanism can be employed in combination with shafts 30 or 65.

The statement on page 4 of the Office Action that “[i]n any case, the elimination of a feature with the consequent loss of function (*i.e.*, the removability of the jack) is an indication of obviousness” is confusing. With the exception of the reference to the loss of the removability of the jack (if the Sweetland device could be modified with the Linton *et al.* apparatus) the applicant is not sure to what the Office Action is referring, making it difficult to reply. In any case, the loss of the removability of the jack would render the Sweetland device unsatisfactory for its intended purpose. “If a proposed modification would render the prior art invention being modified unsatisfactory for its

intended purpose, then there is no suggestion or motivation to make the proposed modification". *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Referring to page 4, carry over paragraph, last sentence of the Green Declaration, Mr. Green states

"the modification proposed by the Office Action would render the Sweetland device unsatisfactory for its intended purpose, namely to be a support removeably engageable with the yoke of a trailer (column 1, line 37-39)."

Therefore, there is no suggestion or motivation to make the modification proposed in the Office Action.

Finally, the Office Action at page 5 states "[a]pplicant is merely claiming a first piece and a second piece, whereby the first and second pieces can transition between a plurality of positions. Applicant cannot argue that this broad recitation is not shown in Linton *et al.* The mere choice of the vehicle in which the pieces are mounted such as a vehicle having an A-frame coupler does not make these elements patentable in view of the fact that jacks already exist on vehicles having A-frame couplers as demonstrated by Sweetland." This is not true. Referring to page 4, second full paragraph of the Green Declaration, Mr. Green states

"This is not true. Claim 1 is directed to a trailer jack mounting apparatus comprising: a first piece mountable to an A-frame coupler of a trailer; and a second piece mountable to a trailer jack, There is no suggestion in the Office Action of how the Linton *et al.* apparatus could be mounted to an A-frame coupler. Claim 21 provides a further limitation "wherein the A-frame coupler is designed to have the trailer jack mounted to the A-frame coupler". There is no suggestion in the Office Action of how the Linton *et al.* apparatus could be mounted to an A-frame coupler designed to have the trailer jack mounted to the A-frame coupler. Claim 22 provides a further limitation "wherein the trailer jack is designed to mount to the A-frame coupler of the trailer". There is no showing in Linton *et al.* of a second piece

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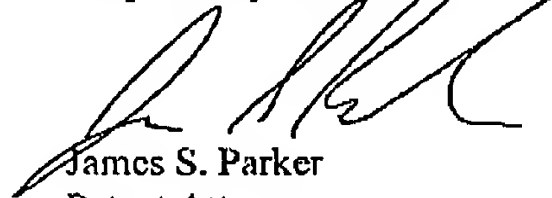
mountable to a trailer jack, wherein the trailer jack is designed to mount to the A-frame coupler of the trailer.”

In view of the foregoing remarks and amendments to the claims, the applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

Applicant invites the Examiner to call the undersigned if clarification is needed on any aspect of this response, or if the Examiner believes there remains any valid ground upon which any claim in this application may be rejected subsequent to entrance of this amendment.

Respectfully submitted,



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Attachment: Notice of Appeal

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